

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

**MAXIE MCNABB,**

# Plaintiff

**V.**

**SANDERS LEAD COMPANY, INC.**

**Defendant.**

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**CIVIL ACTION NO:  
2:06-0664-MHT**

**PLAINTIFF’S SECOND SUPPLEMENTAL  
EVIDENTIARY SUBMISSION**

Comes Now, the Plaintiff, Maxie McNabb, in accordance with the Court's Order allowing the Plaintiff to submit supplemental evidence in support of Plaintiff's Memorandum in Opposition to Defendant's Motion for Summary Judgment. The Plaintiff would show unto the Court as follows:

1. Supplemental Exhibit 1-Disciplinary records for Edward Meadows. The Defendant alleges that the Plaintiff was laid off and not rehired because he had discipline problems, poor work ethic and unsatisfactory production. However, these documents prove that Meadows, who was laid off for these same reasons and was twenty-five years old (25), was rehired at least by April 8, 2006. Moreover, it appears that between April 8, 2006 and August 10, 2006 Meadows may have been fired and rehired again as the disciplinary action form states “unexcused absence only been

working 2 weeks (1 day absent).” After the August 10, 2006 disciplinary action, Meadows was cited for unexcused absences and missing work on seven different occasions. This evidence shows that the Defendant was more than willing to rehire individuals under the age of forty who possessed less than stellar work records.

2. Supplemental Exhibit 2-Disciplinary records for Randolph Harley. Randolph Harley states in his application, dated April 4, 2006, that he had been fired by the Defendant for misconduct in November 2005. (See Pl.’s Ex. 20). Harley was approximately twenty-years old (20) when he reapplied. The Defendant rehired Harley in April 2006 and thereafter he proceeded to receive seven (7) disciplinary actions up until his termination on September 18, 2006 for being tardy fourteen days (14) in one month and a half and for smoking. Again this evidence shows that the Defendant was more than willing to rehire individuals under the age of forty who possessed less than stellar work records.

It is abundantly clear that disciplinary action is not a bar to employment for younger employees. Therefore, it should not have precluded McNabb from being rehired. Based on the foregoing, and the brief and evidentiary submission already on record in this case, summary judgment is due to be denied.

Respectfully submitted,

/s/Roderick T. Cooks  
Attorney for the Plaintiff

**OF COUNSEL:**

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**CERTIFICATE OF SERVICE**

I hereby certify that I have served a copy of the foregoing document on all persons listed below by CMF/Electronic Mail and/or U. S. Mail, postage prepaid and addressed to them as follows:

Matthew M. Baker, Esq.  
Cervera, Ralph & Reeves, LLC  
P.O. Box 325  
914 South Brundidge Street  
Troy, Alabama 36081  
(334) 566-0116

Done this the 23<sup>rd</sup> day of July, 2007.

s/Roderick T. Cooks  
Of Counsel

# SUPPLEMENTAL EXHIBIT 1



## Disciplinary Action

Name: <sup>R.</sup> EDDIE MEADOWS Job Title: \_\_\_\_\_

Address: \_\_\_\_\_

Person Filing Action: JOHN McLENDON

Date Action Filed: 8-10-2006

Discipline Type: Notice ☒ Personnel File ☐ Suspension ☐ Leave Without Pay ☐  
Re-Assignment ☐ Termination ☐

Reason for Discipline: Unexcused Absence

Only Been Working 2 Weeks. (1 Day Absent)

Page from Employee Handbook to Support Discipline 9-C

Status form attached? Yes ☐ No ☒

Additional Comments (Witnesses to Reason for Discipline):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of Recipient Eddie Meadows Dept. Head John McLendon

### Review

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

**Note: Form should be kept Confidential!**

## Disciplinary Action

Name: Edward Meadows Job Title: LABORER

Address: \_\_\_\_\_

Person Filing Action: Ray C. Blair

Date Action Filed: 1-19-07

Discipline Type: Notice ☒ Personnel File ☒ Suspension ☐ Leave Without Pay ☐  
Re-Assignment ☐ Termination ☐

Reason for Discipline:

Unexcused Absence on 1-18-07  
no call in. Come to work  
Do better than this, you needed a job, we helped you out.

Page from Employee Handbook to Support Discipline 9/C

Status form attached? Yes ☐ No ☒

Additional Comments (Witnesses to Reason for Discipline):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of Recipient \_\_\_\_\_ Dept. Head \_\_\_\_\_

Review

Name: Edward Meadows Title: \_\_\_\_\_

Name: \_\_\_\_\_ Title: Asst Dept Head

Name: \_\_\_\_\_ Title: \_\_\_\_\_

**Note: Form should be kept Confidential!**



## Disciplinary Action

Name: Edward Meadows Job Title: LABORER

Address: \_\_\_\_\_

Person Filing Action: Ray C. Blair

Date Action Filed: \_\_\_\_\_

Discipline Type: Notice ☒ Personnel File ☒ Suspension ☐ Leave Without Pay ☐  
Re-Assignment ☐ Termination ☐

Reason for Discipline:

Unexcused Absence on 1-28-07  
no call in.  
PB # 2  
you are not going to be Rehired, Again.

Page from Employee Handbook to Support Discipline 9/C

Status form attached? Yes ☐ No ☒

Additional Comments (Witnesses to Reason for Discipline):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of Recipient Edward Meadows Dept. Head [Signature]

### Review

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

**Note: Form should be kept Confidential!**

## Disciplinary Action

Name: Edward Meadows Job Title: LABORER

Address: \_\_\_\_\_

Person Filing Action: Ray C. Blair

Date Action Filed: 2-4-07

Discipline Type: Notice ☒ Personnel File ☒ Suspension ☐ Leave Without Pay ☐  
Re-Assignment ☐ Termination ☐

Reason for Discipline:

unexcused Absence on 2-3-07

#4 AB -

Page from Employee Handbook to Support Discipline 9/c

Status form attached? Yes ☐ No ☒

Additional Comments (Witnesses to Reason for Discipline):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of Recipient Edward Meadows Dept. Head [Signature]

### Review

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

**Note: Form should be kept Confidential!**



## Disciplinary Action

Name: Edward Meadows Job Title: LABORER

Address: \_\_\_\_\_

Person Filing Action: Ray C. Blair

Date Action Filed: 2-16-07

Discipline Type: Notice ☒ Personnel File ☒ Suspension ☐ Leave Without Pay ☐  
Re-Assignment ☐ Termination ☐

Reason for Discipline:

Unexcused Absence on 2-15-07  
# 5 AB Read your Role Book - We are not  
going to Rehire you.

Page from Employee Handbook to Support Discipline 9/c

Status form attached? Yes ☐ No ☒

Additional Comments (Witnesses to Reason for Discipline):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

X Signature of Recipient Edward Meadows Dept. Head [Signature]

Review

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

**Note: Form should be kept Confidential!**

## Disciplinary Action

Name: EDWARD MEADOWS Job Title: LABORER

Address: \_\_\_\_\_

Person Filing Action: JOHN McLENDON

Date Action Filed: 4-16-2007

Discipline Type:    Notice ☐    Personnel File ☐    Suspension ☐    Leave Without Pay ☐  
                         Re-Assignment ☐    Termination ☐

Reason for Discipline: Unexcused Absence 4-15-2007

Did Not Come To Work, Did Not Call In

#6 AB -

Page from Employee Handbook to Support Discipline 9/C

Status form attached?    Yes ☐    No ☒

Additional Comments (Witnesses to Reason for Discipline):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of Recipient Edward Meadows Dept. Head [Signature]

### Review

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

**Note: Form should be kept Confidential!**



## Disciplinary Action

Name: EDWARD MEADOWS Job Title: LABORER

Address: \_\_\_\_\_

Person Filing Action: JOHN McLENDON

Date Action Filed: 5-20-2007

Discipline Type: Notice ☐ Personnel File ☐ Suspension ☐ Leave Without Pay ☐  
Re-Assignment ☐ Termination ☐

Reason for Discipline: Unexcused Absence

called with car trouble But was coming in.  
Did Not Come To Work 5-19-2007

#7

Page from Employee Handbook to Support Discipline 9-C

Status form attached? Yes ☐ No ☐

Additional Comments (Witnesses to Reason for Discipline):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of Recipient Edward Meadows Dept. Head [Signature]

### Review

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

**Note: Form should be kept Confidential!**

## Disciplinary Action

Name: EDWARD MEADOWS Job Title: LABORER

Address: \_\_\_\_\_

Person Filing Action: JOHN McLENDON

Date Action Filed: 6-1-2007

Discipline Type: Notice ☐ Personnel File ☐ Suspension ☒ Leave Without Pay ☐  
Re-Assignment ☐ Termination ☐

Reason for Discipline: Leaving Work Without Permission  
of Supervisor.


Left Plant To Be Gone 10-15 Min For Phone No. To Parole  
Officer. Did Not Return. Left At 4:15 P.M.

Page from Employee Handbook to Support Discipline ~~18-4~~ 18-4

Status form attached? Yes ☐ No ☒

Additional Comments (Witnesses to Reason for Discipline):

Return To Work 6-10-2007 5 Days Off

Signature of Recipient Edward Meadows Dept. Head 

Review

Name:  Title: HR

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Note: Form should be kept Confidential!



## Disciplinary Action

Name: Edward Meadows Job Title: LABORER

Address: \_\_\_\_\_

Person Filing Action: Ray C. Blair

Date Action Filed: 4-8-06

Discipline Type: Notice ☐ Personnel File ☐ Suspension ☐ Leave Without Pay ☐  
Re-Assignment ☐ Termination ☒

Reason for Discipline:

FOR Excessive absenteeism and absent  
without notice. Edward have a bad attitude  
Sometime.

Page from Employee Handbook to Support Discipline Page 9 Rule #6 + #12

Status form attached? Yes ☒ No ☐

Additional Comments (Witnesses to Reason for Discipline):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of Recipient Edward Meadows Dept. Head \_\_\_\_\_

Review

Name: Sam Fisher Title: HR

Name: Dennis Glover Title: [Signature]

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Note: Form should be kept Confidential!

# SUPPLEMENTAL EXHIBIT 2

## Disciplinary Action

Name: RANDOLPH HARLEY Job Title: LABORER

Address: \_\_\_\_\_

Person Filing Action: JOHN McLENDON

Date Action Filed: 7-18-2006

Discipline Type: Notice ☒ Personnel File ☐ Suspension ☐ Leave Without Pay ☐  
Re-Assignment ☐ Termination ☐

Reason for Discipline:  
Unexcused Absence 7-17-2006

Page from Employee Handbook to Support Discipline 9C

Status form attached? Yes ☐ No ☒

Additional Comments (Witnesses to Reason for Discipline):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of Recipient Randolph E. Harley Dept. Head John McLendon

### Review

Name: [Signature] Title: Dept Head

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Note: Form should be kept Confidential!



## Disciplinary Action

Name: RANDOLPH HARLEY Job Title: \_\_\_\_\_

Address: \_\_\_\_\_

Person Filing Action: JOHN McLENDONDate Action Filed: 8-1-2006Discipline Type: Notice ☒ Personnel File ☐ Suspension ☐ Leave Without Pay ☐  
Re-Assignment ☐ Termination ☐Reason for Discipline: Unexcused Absence 7-31-2006Page from Employee Handbook to Support Discipline 9-C, 8-BStatus form attached? Yes ☐ No ☒

Additional Comments (Witnesses to Reason for Discipline):

Been out 7 Days in 3 Months.  
5 Unexcused 2 ExcusedSignature of Recipient Randolph E. Harley Dept. Head John McLendon

### Review

Name: [Signature] Title: Asst Dept Head

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

**Note: Form should be kept Confidential!**

## Disciplinary Action

Name: RANDOLPH HARLEY Job Title: \_\_\_\_\_

Address: \_\_\_\_\_

Person Filing Action: JOHN McLENDON

Date Action Filed: 8-10-2006

Discipline Type: Notice ☒ Personnel File ☐ Suspension ☐ Leave Without Pay ☐  
Re-Assignment ☐ Termination ☐

Reason for Discipline: Unexcused Absence

per to date this is # 6 AB, from this point you are headed  
toward termination.

See pg 8 & 9 in Rls book  
Page from Employee Handbook to Support Discipline 9-C

Status form attached? Yes ☐ No ☒

Additional Comments (Witnesses to Reason for Discipline):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of Recipient Randolph E. Harley Dept. Head John McLendon

### Review

Name: [Signature] Title: CH1 Dept Head

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Note: Form should be kept Confidential!



## Disciplinary Action

Name: RANDOLPH HARLEY Job Title: \_\_\_\_\_

Address: \_\_\_\_\_

Person Filing Action: JOHN MCLENDON

Date Action Filed: 8-16-2006

Discipline Type: Notice ☐ Personnel File ☒ Suspension ☐ Leave Without Pay ☐  
Re-Assignment ☐ Termination ☐

Reason for Discipline: Unexcused Absence

#7 AB - written warning / next time one (1) day suspension.

Page from Employee Handbook to Support Discipline 9-C

Status form attached? Yes ☐ No ☒

Additional Comments (Witnesses to Reason for Discipline):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of Recipient: Randolph E. Harley Dept. Head: John McLeod

### Review

Name: [Signature] Title: CVA Dept Head

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Note: Form should be kept Confidential!

## Disciplinary Action

Name: Randolph Harley Job Title: \_\_\_\_\_

Address: \_\_\_\_\_

Person Filing Action: EF

Date Action Filed: 9-1-06

Discipline Type: Notice ☐ Personnel File ☒ Suspension ☐ Leave Without Pay ☐  
Re-Assignment ☐ Termination ☐

Reason for Discipline:

AB Aug 30 + 31 no call  
But he said he was sick. I gave him  
the benefit of the doubt.  
I will not do this again, I have done all  
I can to keep this mans job / it is up to him.

Page from Employee Handbook to Support Discipline Pg 8 & 9

Status form attached? Yes ☐ No ☐

Additional Comments (Witnesses to Reason for Discipline):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of Recipient Randolph Harley Dept. Head [Signature]

### Review

Name: [Signature] Title: Chf Dept Head

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Note: Form should be kept Confidential!



## Disciplinary Action

Name: Randolph Harley Job Title: Laborer

Address: \_\_\_\_\_

Person Filing Action: Kelley Gienow

Date Action Filed: 9-1-06

Discipline Type: Notice ☒ Personnel File ☐ Suspension ☐ Leave Without Pay ☐  
Re-Assignment ☐ Termination ☐

Reason for Discipline: Possession of tobacco.  
First offense - Verbal Warning.

Page from Employee Handbook to Support Discipline: pg. 17 Rule 9

Status form attached? Yes ☐ No ☒

Additional Comments (Witnesses to Reason for Discipline):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of Recipient Randolph Harley Dept. Head [Signature]

### Review

Name: [Signature] Title: Asst. Dept. Head

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

**Note: Form should be kept Confidential!**



## Disciplinary Action

Name: RANDOLPH HARLEY Job Title: \_\_\_\_\_

Address: \_\_\_\_\_

Person Filing Action: JOHN McLENDONDate Action Filed: 9-18-2006Discipline Type: Notice ☐ Personnel File ☐ Suspension ☐ Leave Without Pay ☐  
Re-Assignment ☐ Termination ☒Reason for Discipline: Tardiness 9-D14 Day In Month and Half.  
TERMINATED FOR CONTINUAL TARDINESS AND  
ABSENCE. ALSO SMOKING IN UNAUTHORIZED AREAPage from Employee Handbook to Support Discipline 9-DStatus form attached? Yes ☐ No ☒Additional Comments (Witnesses to Reason for Discipline):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_Signature of Recipient Randolph S. Harley Dept. Head John McLendonReviewName: [Signature] Title: HR

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

**Note: Form should be kept Confidential!**